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Nepal: The police and armed forces; whether they support the new 2008 government through force
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

Nepal held Constituent Assembly elections on 10 April 2008 and was declared a Federal Democratic Republic on 28 May 2008 (AHRC 25 June 2008). On 21 July 2008, Ram Baran Yadav won 308 of the 590 votes in the Constituent Assembly to become Nepal's first president (AFP 21 July 2008). On 18 August 2008, Chairman Prachanda [Pushpa Kamal Dahal] of the Communist Party of Nepal (Maoist) (CPN-M) was sworn in as prime minister with 464 Constituent Assembly votes (Xinhua News Agency 18 Aug. 2008; see also BBC 28 Aug. 2008).

According to Agence France Presse (AFP), the terms of Nepal's peace process include the integration of Maoist combatants into Nepal's security forces, with the Maoists demanding that these combatants be integrated into the Nepalese army (25 Nov. 2008). Sources reporting on Maoist People's Liberation Army (PLA) integration into the Nepalese army include differing estimates on the number of combatants remaining in camps (ICRC 27 May 2008, 191; UN 30 Oct. 2008). According to the International Committee of the Red Cross (ICRC), in 2007, there were an estimated 30,000 members of the PLA contained in 7 main and 21 satellite camps (27 May 2008, 191). A UN Integrated Regional Information Networks (IRIN) article indicates that there are 20,000 PLA combatants in the 28 cantonment camps monitored by the UN mission in Nepal (30 Oct. 2008; see also AFP 25 Nov. 2008).

According to the IRIN article, officials of the UN mission in Nepal regard the rehabilitation of the combatants as an important aspect of the peace process; however, the issue remains controversial among differing political parties (UN 30 Oct. 2008). At a November 2008 UN press conference, Ian Martin, the UN special representative of the secretary-general in Nepal and head of the UN mission in Nepal, stated that there were "widely differing views on the extent to which Maoist army combatants should be integrated into the State Army" (UN 10 Nov. 2008). According to AFP, the army was once a "bastion of Nepal's former ruling elite" and "does not want to open its ranks to the highly indoctrinated former rebels" (25 Nov. 2008).

In an article published after the new Maoist-led government took office, the Indo-Asian News Service reports that the opposition party Nepali Congress (NC) called for the shutdown of the Kathmandu valley because of the death of a youth leader (12 Sept. 2008). According to witnesses, the youth leader was beaten to death by the police during a student union protest; however, the police report

that he died in a motorcycle accident (Indo-Asian News Service 12 Sept. 2008). The article further states that Home Minister and Deputy Prime Minister Bam Dev Gautam publicly announced that the "police would use force to bring criminals under control" (ibid.). Additionally, the Asian Human Rights Commission (AHRC) reports that Gautam announced on 1 September 2008 that he would restore "law and order in Nepal within six months and end the state of impunity" (11 Sept. 2008).

Further information on whether the police and armed forces support the new government through force could not be found among the sources consulted by the Research Directorate; however, the following information on the use of force by the security forces from 2006 to 2008 may be of interest.

A 2006 Freedom House country report on Nepal indicates that the army, security forces and the Maoists have used excessive force, "including summary executions, torture and detention without trial." According to a 2 May 2006 United Nations (UN) News Service article, Manfred Nowak, a UN expert on torture, stated that in Nepal "torture was conducted on a systematic basis" by the government and the Maoists, and that officials at a high level made admissions about the use of torture.

From its creation in 2001 to mid-2007, Advocacy Forum (AF), a non-governmental organization that documents human rights violations and challenges the "culture of impunity" in Nepal (AF n.d.), documented "449 cases of extrajudicial killing, 554 cases of disappearance, and 3,534 cases of torture" (25 June 2007, 6). Its 25 June 2007 report states that the government has not prosecuted any cases involving extrajudicial killings, forced disappearance or torture, that the Nepalese army has failed to cooperate with investigations, and that "torture in police detention centres remains rampant" (AF 25 June 2007, 5). A report by the Office of the UN High Commissioner for Human Rights (OHCHR) in Nepal similarly states that "not one member of the security forces or of the CPN-M has been held criminally accountable and convicted for killings, disappearances, torture or other abuses by the civilian courts" (Dec. 2007, 22).

According to the OHCHR report, the peace process in Nepal, which began after the ceasefire in April 2006 and culminated in the 21 November 2006 signing of the Comprehensive Peace Agreement, facilitated progress "in ending serious conflict-related abuses" (UN Dec. 2007, 1). Amnesty International (AI) notes that the peace process led to "major improvements in the human rights situation" in Nepal (2007). However, the OHCHR report indicates that in 2007 the gains made during 2006 had not been "consolidated" and that protection for human rights had "deteriorated" (UN Dec. 2007, 1). The OHCHR report states that the actions of security forces have been "called into question on numerous occasions" due to either their non-intervention in situations of violence or their use of "excessive" force (ibid.).

Though the end of absolute rule in Nepal in April 2006 and the resulting peace agreements between the Maoists and the government was expected to increase protection for human rights, according to AF, the army still engaged in the "torture" of civilians in 2007 (AF 25 June 2007, 2). According to the United States (US) Department of State's *Country Reports on Human Rights Practices for 2007*, in Nepal, security forces engaged in torture, beatings and mutilation in order to punish or extract confessions from suspects (11 Mar. 2008, Sec. 1c). Additionally, *Country Reports 2007* states that the Nepal Police and the Armed Police Force "occasionally used excessive and lethal force in response to

continued demonstrations throughout the country" (US 11 Mar. 2008).

According to the Observatory for the Protection of Human Rights Defenders' *Annual Report 2007*,

[i]t is indisputable that ... the establishment of a Parliament and an interim Government in January and April 2007, have put an end to large-scale repression and led to a marked improvement of human rights in the country. (FIDH/OMCT 2007, 212)

However, the report also indicates that those who defend human rights in Nepal and challenge the impunity of perpetrators of violence "are the targets of State agents, such as the police and armed forces who regularly seek to intimidate and threaten them" (FIDH/OMCT 2007, 213). The report further states that members of non-governmental organizations (NGOs), human rights defenders and journalists are "regularly threatened by the authorities they accuse" (ibid.).

The UN Office for the Coordination of Humanitarian Affairs (OCHA) in Nepal published a report on 3 March 2008 that discusses conflict and security for the previous month of February, and states that political tensions mounted due to the scheduled 10 April 2008 Constituent Assembly elections. During this period, "killings [by the security forces] in the context of protests or curfew violations among others, were reported, especially in eastern and central Terai" (UN 3 Mar. 2008, 2). An AF newsletter covering events from January and February 2008 reports that a member of AF, who was documenting the use of force by police personnel during a meeting involving seven political parties was beaten by the Nepal police (Jan./Feb. 2008, 1).

In a 2008 report assessing the impact of the Torture Compensation Act of 1996 (TCA), AF states that the TCA does not criminalize torture and does not adequately address the needs of torture victims (26 June 2008, vii). The AHRC similarly states that though Nepal is a state party to the UN *Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment*, "the TCA neither criminalizes torture nor obligates the government to take action against a perpetrator of torture" (25 June 2008). In 2008, AF interviewed 3731 detainees in governmental detention facilities and 1228 claimed that they were "tortured" (26 June 2008, viii). In regard to prosecution, AF states the following:

... in the 12-year history of the TCA, only 208 cases of torture compensation have been filed, only 52 victims have been awarded compensation under the TCA, and of those awarded compensation, only 7 victims (13.46%) have thus far actually received their money. (26 June 2008, viii)

AF further states that the perpetrators of torture named in these cases have not been held criminally responsible for their actions (26 June 2008, 1).

In a September 2008 report, Human Rights Watch (HRW) states that interviews with the police force demonstrate that the police "identify closely with the army" and support their impunity (11 Sept. 2008, 5). According to HRW, the main strategy for avoiding human rights investigations is to refuse to process a complaint (11 Sept. 2008, 5). Additionally, HRW states that the Army Act, the Police Act, and the Public Security Act protect civil servants and security forces

from prosecution for "egregious human rights abuses" if soldiers and police officers can assert that their actions were carried out in "good faith" (11 Sept. 2008, 5).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Oral sources: Attempts to contact Human Rights Watch in New York and Washington were unsuccessful. The South Asia Human Rights Documentation Centre (SAHRDC), Advocacy Forum and the Informal Sector Service Centre (INSEC) did not provide information within the time constraints of this Response.

Internet sites, including: European Country of Origin Information Network (ecoi.net), Centre for Excellence in Disaster Management and Humanitarian Assistance, Freedom House, GlobalSecurity.org, Institute for War and Peace Reporting, International Centre for Transitional Justice, United Nations ReliefWeb, United States Committee for Refugees and Immigrants (USCRI).

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